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EXAMINER

KIM, CHONG HWA

ART UNIT PAPER NUMBER

3682

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/632,595

Applicant(s)

MENAYAN, JESSE

Examiner

Chong H. Kim

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/1/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the language “similar” in line 1. It is indefinite because the language is not clear. Such language does not appear to set the metes and bounds of the claim subject matter.

Claim 8 recite the limitation “engagement components” in line 2. It is indefinite because it is not clear whether the limitation in claim 8 is a part of the pedal system in addition to the engagement components recited in claim 1 or not.

Claim 9 recites the limitation “a conventional bicycle shoe” in lines 3-4. It is indefinite because it is not clear what type of bicycle shoe is considered “conventional”.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1, 3, 5, 6, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Genzling, U.S. Patent 4,089,236.

Genzling shows, in Figs. 1-4, a clipless bicycle pedal system comprising:

a spindle 12;

first and second engagement components 21, 22 mounted on the spindle adjacent one another, but forming a gap between at least portions of the engagement components;

first and second biasing members 34 directly coupled to the first and second engagement components, respectively;

wherein the biasing members axially force the engagement components towards one another tending to minimize the gap there between;

thereby providing a releasable engagement for a shoe-mounted cleat having a projection latch member sized to be engaged by the gap;

wherein the biasing members are springs;

wherein the engagement components are capable of rotating on the spindle about its axis;

wherein the engagement components are capable of side-to-side motion on the spindle, thereby providing the pedal with axial float;

a cleat (not shown but disclosed in col. 5, lines 16-32) having a projection latch member (inclined side surface) sized to engage the gap between the pedal first and second engagement components, and the cleat is attachable to a conventional bicycle shoe;

wherein the cleat comprises a disk (sole plate) on which the latch is mounted; the disk is attachable to the forward portion of the sole of the shoe; and the disk is configured such that the user may rotate his or her foot while the cleat is engaged in the pedal.

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5. Claims 11-13 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lyotard, FR 2624470 A1.

Lyotard shows, in Figs. 1-8, a clipless bicycle pedal system comprising:

a pedal 4 including a spindle 3;

a first and second engagement components 4c and 7 mounted on the spindle adjacent one another, but forming a constant gap entirely around the spindle forming a uniformed infinitely sided platform and between at least portions of the engagement components;

a cleat 1 capable of engaging with the gap at any aide of the platform;

wherein the components are spring biased to a closing position, wherein the components are forced against one another and the gap is minimized;

the engagement components capable of side-to-side motion with respect to the axis of the spindle, providing axial float when the cleat is engaged;

a cylindrical bearing 4d mounted between the spindle and the engagement components, the cylindrical bearing having a smooth surface for allowing the engagement component to slide with respect to the axis of the spindle;

the cleat comprising a latch 1g having a wide head that is generally rounded to guide the pedal into engagement position;

the cleat being coupled to a shoe worn on a rider's foot, and the engagement components and cleat being configured such that the rider is capable of twisting his/her foot while engaged in the pedal.

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6. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Lyotard, FR 2624470 A1.

Lyotard shows, in Figs. 1-8, a method of engaging and disengaging a bicycle shoe to a bicycle pedal comprising:

providing a bicycle having a pedal 4 mounted to a spindle 3 with engagement components 4c and 7 biased together to minimize the gap there between, the gap of constant width around the spindle;

providing a shoe-mounted cleat 1 having a projecting member 1g sized to engage the gap between the engagement components;

pressing the cleat projecting member against the gap between the pedal engagement components anywhere around the spindle, thereby moving of said pedal to an open position; and

further pressing said cleat against the pedal to latch said cleat projecting member thereby engagement component positions to a closed position, wherein substantially twisting said cleat projection member to axially force apart said pedal engagement components thereby widening said gap and allowing said bicycle shoe to disengage from said pedal.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lyotard.

Lyotard shows, as discussed above in the rejection of claim 11, the clipless bicycle pedal system comprising the engagement components and the spindle, but fails to show the each element being formed from titanium.

It would have been obvious to make the engagement components and the spindle of Lyotard with titanium material since the examiner takes Official Notice of the fact that utilizing a titanium material in the art of bicycle pedals in order to make the parts stronger and the selection of any of the known materials to strengthen the pedal parts would be within the level of ordinary skill in the art.

9. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyotard in view of Genzling, U.S. Patent 4,089,236, or in view of Nutto et al., U.S. Patent 6,076,427, or in view of Steinberg, U.S. Patent 5,046,382, or in view of Howell, U.S. Patent 4,640,151.

Lyotard shows, in Figs. 1-4, a clipless bicycle pedal system comprising a spindle 3; first and second engagement components 4c, 7 mounted on the spindle adjacent one another, but forming a gap between at least portions of the engagement components; a biasing member 8 directly coupled to the engagement components, wherein the biasing member axially force the engagement components towards one another tending to minimize the gap there between; thereby providing a releasable engagement for a shoe-mounted cleat having a projecting latch member 1 sized to be engaged by the gap; wherein the gap between the engagement components is continuous, thereby providing a uniformed, infinitely-sided pedal platform for engagement of the cleat projecting latch member around the spindle; wherein the biasing member is a spring; wherein the engagement components are generally cylindrical; wherein the engagement

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components are capable of rotating on the spindle about its axis; wherein the engagement components are capable of side-to-side motion on the spindle, thereby providing the pedal with axial float; the engagement components are similar to one another, each comprising a hollow cylindrical core and a flared out portion (near 4e and 7c) concentric with and radially extending from the core, wherein the gap is between the edges of the flared out portions; a cleat 1 having a projecting latch member 1g sized to engage the gap between the pedal first and second engagement components, and the cleat is attachable to a conventional bicycle shoe; wherein the cleat further comprises a disk 1f on which the latch is mounted, the disk is attachable to the forward portion of the sole of the shoe, and the disk is configured such that the user may rotate his or her foot while the cleat is engaged in the pedal; but fails to show another biasing member that is coupled to the other engagement component.

Genzling shows, in Fig. 4, a pedal system having two biasing members 34 for biasing two engagement components 21, 22.

Nutto et al. shows, in Figs. 3 and 4, a pedal system having two biasing members 28 for biasing two engagement components 30, 35.

Steinberg shows, in Fig. 3, a pedal system having two biasing members 20, 24 for biasing two engagement components 18, 22.

Howell shows, in Figs. 1-11, a pedal system having two biasing members 26 for biasing two engagement components 24.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the single biasing means of Lyotard with a double biasing means as taught by Genzling, Nutto et al., Steinberg, or Howell in order to provide an easier and more



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flexible way to engage and disengage so that a quicker mounting or dismounting is provided and so that an accident can be prevented.

Even if the references above fail to suggest the motivation to modify the biasing member of Lyotard, it would have been obvious to make the single biasing member of Lyotard with double biasing members, since such modification would have involved a mere adding of another biasing member so that the biasing members are disposed on the opposite ends of the engagement components. A duplication of parts is generally recognized as being within the level of ordinary skill in the art. *In re Harza*, 124 USPQ 378.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pedal system with spindles and spindle engaging cleats.

Trindle, U.S. Patent 4,538,480

Pedal system with engagement components biased by spring.

Erickson, U.S. Patent 620, 291

Pedal system with engagement components axially floating on spindle.

Graham, U.S. Patent 543,806


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chong H. Kim whose telephone number is (571) 272-7108. The examiner can normally be reached on Monday - Friday; 6:00 - 2:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

chk  
March 13, 2006

  
CHONG H. KIM  
PRIMARY EXAMINER